**AMENDMENTS TO THE DRAWINGS**

One (1) sheet of replacement drawing in compliance with 37 C.F.R. § 1.84 are submitted herewith. The submitted drawing is a formal drawing intended to supplement the drawings previously submitted on April 6, 2007. No new matter is added. The Examiner is respectfully requested to acknowledge receipt of these drawings.

Attachment: One (1) New Sheet

## REMARKS

Claims 1-18 are all the claims pending in the present application. Claim 10 has been withdrawn from consideration by the Examiner. Claims 1-9 and 11-18 stand rejected under 35 U.S.C. § 112 and on prior art grounds.

### I. Drawing Objection

The Examiner has objected to the drawings for allegedly failing to show every feature of the invention specified in the claims. Specifically, the Examiner maintains that the drawings fail to show that the screw shank comes into abutment against the side wall 16c, as described in claim 2. The Examiner contends that the above feature must be shown or the feature canceled from the claim. Applicant is submitting herewith new Figure 6, depicting the above-mentioned feature of claim 2. No new matter is added.

### II. Claim Objections

Claims 1 and 8 have been objected to for allegedly containing minor informalities. Applicant has amended claims 1 and 8 in a manner believed to overcome the objection.

### III. Claim Rejections - 35 USC § 112

Claims 1-9 and 11-18 stand rejected under 35 U.S.C. 112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. With regard to claim 1, the Examiner states:

> Regarding claim 1, there is an inconsistency between the language in the preamble and a certain portion in the body of the

> claim, thereby making the scope of the claims unclear. The preamble clearly indicated that the fastener system is "for fastening a vacuum pump (1) to a wall (2) of a stationary structure (3), having tapped holes (15) provided in the wall (2) of the stationary structure (3)". However, the body of the claim positively recites the wall, having the tapped holes (15), e.g., "their shanks (19) ... are screwed into corresponding ones of the tapped holes" (lines 9-10). Accordingly, is the combination or subcombination being claimed? Appropriate correction, clarification, or both is required. For purposes of this Office action, the examiner has considered the wall as being part of the fastener system as a combination.
>
> Further, the limitation "when fastened to the stationary structure" in line 15 make unclear what is fastened to the stationary structure. Is it the tapped hole? If so, how does one fasten a hole to the stationary structure?

Applicant respectfully disagrees. With regard to the Examiner's first point, claim 1 recites a fastener system comprising, a coaxial angular flange, through holes and screws. Although the body of the claim mentions tapped holes (15) and the stationary structure (3), these references are merely used to describe the relative structure and function of the positively recited screws. The claimed fastener system does not require the wall and the tapped holes, nor are the wall and tapped holes positively recited in the claim. Accordingly, Applicant respectfully requests the Examiner to withdraw the rejection.

With regard to the Examiner's second point with respect to claim 1, Applicant has amended the claim in a manner believed to obviate the Examiner's contention.

With regard to claim 2, the Examiner states:

> Regarding claim 2, the metes and bounds of the claim is unclear. In particular, does the proximal segment only allow maximum lateral offset "during bending of the screw shank". It appears that the proximal segment will still allow lateral maximum offset even before the screw shank is bent.

Applicant has amended claim 2 to clarify that the proximal segment allows maximum lateral offset, such that during bending of the screw shank, the screw shank comes into abutment against the side wall of the proximal segment of the through hole. Therefore, Applicant submits that the claimed proximal segment allows maximum offset during bending of the screw shank and when the screw shank is not bent, such that the rejection should be withdrawn.

With regard to claim 11, the Examiner states:

> Regarding claim 11, the recitation "an outermost opening of the hole in the stationary structure" in lines 14-15 is a relative term. How does one determine the opening being the outermost? Note that the claim does not establish a point of reference, segments in the hole similar as the through hole has been established in claim 11, lines 4-5, nor does the structure has been established being enclosed for there to be an inner wall and an outer wall to provide for innermost and outermost locations. Further, is one to assume that there's an innermost opening as well?

Applicant has amended claim 11 to delete the claim recitation "an outermost opening of." Thus, amended claim 11 recites, "wherein the proximal segment has an opening that is sized differently from the hole in the stationary structure." Applicant submits that the present amendment to claim 11 is sufficient to overcome the rejection under 35 U.S.C. § 112.

Since claims 3-9 and 18, are dependent upon claim 1, Applicant submits that such claims are not indefinite at least by virtue of their dependency. Since claims 12-18 are dependent upon claim 11, Applicant submits that such claims are not indefinite at least by virtue of their dependency.

## IV. Claim Rejection under 35 U.S.C. § 102 U.S. Patent No. 2,748,578 to Potts ("Potts")

Claims 1, 2, 11-14, and 18 stand rejected under 35 U.S.C. 102(b) as allegedly being anticipated by Potts. Applicant respectfully traverses the rejection.

### A. Claim 1

In the Amendment filed December 6, 2007, Applicant argued that, with reference to Figure 1 of Potts and the Examiner's marked-up attachment thereof submitted with the Office Action of June 6, 2007, the portion labeled A3 could not correspond to the claimed distal segment of the claimed through hole, and the portion labeled A4 could not correspond to the claimed proximal segment of the claimed through hole. *See* Amendment of December 6, 2007 at page 13. More specifically, the Examiner's interpretation ignores the claimed feature "wherein said proximal segment (16b) is configured to be provided adjacent to the corresponding tapped hole of the stationary structure. The portion labeled A3, which allegedly corresponds to the claimed distal segment is adjacent to the portion labeled A1, which the Examiner alleges corresponds to the tapped hole. In other words, under the Examiner's interpretation of Potts, the distal segment is adjacent to the tapped hole, as opposed to the proximal segment being adjacent to the tapped hole.

In the present Office Action, the Examiner asserts that the conditional statement "when" is not a positively limitation and does not need to be fulfilled since the features are not claimed being fastened. Although Applicant does not necessarily agree with the Examiner, Applicant has amended the claim to remove the alleged "conditional statement." The Examiner further states that the tapped holes and the stationary structure are not claimed and thus the proximal segment

is not required to be adjacent to the tapped holes. Applicant notes that the Examiner's statement that the tapped holes and the stationary structure are not claimed contradicts the Examiner's statement that "the body of the claim positively recites the wall, having the tapped holes (15)." *See* Office Action at page 4. Furthermore, the claim limitation in question relates to the location of the proximal segment, which is a positively recited claim feature. Merely because the location of the proximal segment is described in relation to the tapped holes and stationary structure, which are not positively recited, does not mean that the Examiner can simply ignore the claim limitation. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631 (Fed. Cir. 1987). The MPEP does not carve out an exception that claim limitations described relative to elements that are not positively recited may be ignored and are not required to be found in a prior art reference. Therefore, Applicant submits that the Examiner must give patentable weight to the above claim feature. Furthermore, Applicant submits that claim 1 is patentable over Potts for at least the reasons discussed above and set forth in the Amendment filed December 6, 2007.

The Examiner further asserts that "[a]ccording to the Potts [reference], there's nothing that would prevent the proximal end from being adjacent to a tapped hole of a wall and the applicants have not shown otherwise that this cannot be possible." However, restructuring the device of Potts so that the alleged proximal end A4 is adjacent to the alleged tapped hole A1, would require the collar 15 to be inverted relative to collar 24. *See* Potts at Figure 1 and the Examiner's marked-up attachment thereof submitted with the Office Action of June 6, 2007.

However, the coupling taught by Potts is intended to establish a driving connection between a drive shaft 10 and a driven shaft 12. *See* Potts at col. 2, lines 35-37. Inverting the collar 15 relative to collar 24 would cause the drive shaft 10 and the driven shaft 12 to become misaligned, thus frustrating the purpose of Potts. Cap screw 32 of Potts is designed to be inserted into element A4 first and extend through element A3, before engaging element A1. *See* Potts at Figure 1 and the Examiner's marked-up attachment thereof submitted with the Office Action of June 6, 2007. Notwithstanding whether the alleged proximal end of Potts could be adjacent to a tapped hole of a wall, the fact remains that element A4, which allegedly corresponds to the claimed proximal segment is not "configured to be provided adjacent to the corresponding tapped hole of the stationary structure," as recited in claim 1. Accordingly, Applicant submits that claim 1 is patentable over Potts for at least the foregoing reasons.

**B. Claim 2**

With regard to claim 2, in the Amendment filed December 6, 2007, Applicant argued that, according to the Examiner's interpretation of Potts, the screw shank is disposed in the alleged distal segment A3 and the alleged tapped hole A1, while the screw head is disposed in the alleged proximal segment A4. *See* marked-up attachment of Figure 1 of Potts. Assuming *arguendo*, that the screw shank of Potts is able to bend, if the screw shank were to bend, the screw shank would not come into abutment against the side wall of the proximal segment, as claimed, but would rather come into abutment against the side wall of the alleged distal segment A3, since the screw shank is not disposed in the proximal segment.

In response, the Examiner contends that patentability is based on the structural limitations that are different over the prior and not how the system operates or what the system does. The reference to "bending" in lines 2-6 is not a structural limitation but rather a method step limitation and thus does not serve to structurally distinguish over the prior art.

Applicant submits that the claim feature "the proximal segment (16b) of the through hole (16) allows a maximum lateral offset (D) between the through hole (16) and the corresponding tapped hole that is greater than the radius of the screw shank (19), such that during bending of the screw shank (19), the screw shank comes into abutment against the side wall (16c) of the proximal segment (16b) of the through hole (16)" defines a function limitation of the claim. Furthermore, "[t]here is nothing inherently wrong with defining some part of an invention in functional terms. Functional language does not, in and of itself, render a claim improper." MPEP §2173.05(g) (citing *In re Swinehart*, 439 F.2d 210, 169 USPQ 226 (CCPA 1971)). "A functional limitation must be evaluated and considered, just like any other limitation of the claim, for what it fairly conveys to a person of ordinary skill in the pertinent art in the context in which it is used." MPEP § 2173.05(g). Accordingly, Applicant submits that the Examiner must give patentable weight to the claimed features in question. Applicant also submits that claim 2 is patentable over Potts for the reasons set forth above and submitted in the Amendment dated December 6, 2007.

In addition, Applicant argued that the Examiner has not provided any support for the contention that Potts teaches a maximum lateral offset between the through hole and the corresponding tapped hole is greater than the radius of the screw shank. In the present Office Action, the Examiner asserts that the Examiner never made such a contention. However, Applicant respectfully points out that, in alleging that Potts teaches all of the features of claim 2,

the Examiner clearly states "[a] maximum lateral offset between the through hole and the corresponding tapped hole is greater than the radius of the screw shank." This statement is found at page 6 of the present Office Action and the Office Action dated June 6, 2007. However, the Examiner has failed to provide support his contention in either Office Action. In contradistinction to the Examiner's position, Potts teaches that upon excessive torque load being placed upon the driven shaft 12, the shear pins 33 will break to disconnect the motor from the load, whereby the shaft 10 and sleeve 30 will be permitted to rotate freely relative to the driven shaft 12. *See* Potts at col. 3, lines 53-58. In other words, Potts teaches that upon an excessive torque load exerted on the drive shaft 12, the shear pins 33 break in response to the torque as opposed to allowing a maximum lateral offset between the through hole and the corresponding tapped hole. In addition, Potts further fails to teach that the maximum lateral offset is greater than the radius of the screw shank. Accordingly, Applicant submits that claim 2 is patentable over Potts for at least the reasons set forth above, as well as by virtue of its dependency upon claim 1.

**C. Claims 11-14 and 18**

With respect to claim 11, the Examiner states:

> With respect to claim 11, the same examiner's augments [*sic*] mentioned with respect to claim 11 [*sic*] apply here as well.

Applicant presumes the Examiner intended to refer to the Examiner's arguments mentioned with respect to claim 1, not claim 11. Therefore, Applicant submits that claim 11 is patentable over Potts for at least reasons set forth above for claim 1.

Since claims 12-14 are dependent upon claim 11, Applicant submits that such claims are patentable at least by virtue of their dependency. Since claim 18 is dependent upon claim 1, Applicant submits that it is patentable at least by virtue of its dependency.

## V. Claim Rejection under 35 U.S.C. § 102[1] U.S. Patent No. 2,083,054 to Cline ("Cline")

Claims 11, 12, 15, and 16 are rejected under 35 U.S.C. 103(a) as allegedly being anticipated by newly cited Cline. Applicant respectfully traverses the rejection as follows.

### A. Claim 11

Claim 11 recites, *inter alia*,

> wherein a cross-sectional area of the distal segment taken in a direction perpendicular to a central axis of the through hole is smaller than a cross-sectional area of the proximal segment taken in a direction perpendicular to a central axis of the through hole, and such that, when the screw is inserted into the through hole with the proximal segment closest to the stationary structure relative to the distal segment and secured to the stationary structure, the proximal segment provides a gap in which the shank can bend while maintaining the vacuum pump fastened to the stationary structure; and
>
> wherein the proximal segment has an opening that is sized differently from the hole in the stationary structure.

The Examiner maintains that element A1 of the Examiner's marked-up version of Figure 1 of Cline corresponds to the claimed opening of the proximal segment, and that element A2 corresponds to the opening of hole 15 in stationary structure 13. *See* Office Action at page 8.

[1] In the Office Action, the Examiner indicates that claims 11, 12, 15, and 16 are rejected under 35 U.S.C. 103(a) as being anticipated by Cline, 2,083,054. Since this rejection is located under the heading "Claim Rejections - 35 USC § 102" in the Office Action, Applicant presumes that the Examiner intended the rejection to be under 35 U.S.C. § 102(b).

However, as clearly shown in marked-up Figure 1, the alleged opening of the proximal segment A1 is the same size as the alleged hole opening A2. More specifically, Cline teaches that the adjacent ends of apertures 14 and 15 are preferably enlarged as shown at 16 and 17. *See* Cline at col. 1, lines 26-29. Cline does not teach that the enlarged adjacent ends of apertures 14 and 15 are sized differently, but rather indicates in Figure 1, that the enlarged portions 16 and 17 are symmetrical about horizontal gasket 18. *See* Cline at Figure 1. Therefore, Cline fails to teach or suggest that "the proximal segment has an opening that is sized differently from the hole in the stationary structure."

Moreover, Cline also teaches that the flanges 12 and 13 are connected by bolts that are weakened so that upon forceful impact, the bolts will break and thus prevent undue breakage or disturbance of the parts of the stock. *See* Cline at col. 1, lines 4-11. More specifically, Cline teaches that, under impact, the bolts will be sheared or pulled apart at the grooves 22, so that the entire upper structure can fall to the ground without injury to the lower structure. *See* Cline at col. 2, lines 5-12. That is, the bolts 19 of Cline are designed to break to allow the upper and lower portions 10 and 11 to separate. Therefore, Cline fails to teach or suggest that "the proximal segment provides a gap in which the shank can bend while maintaining the vacuum pump fastened to the stationary structure." In fact, Cline expressly teaches the upper and low portions 10 and 11 are not to remain fastened together under impact. In the event the Examiner attempts to disregard this claim limitation because it is a functional limitation, Applicant would remind the Examiner that "[a] functional limitation must be evaluated and considered, just like any other limitation of the claim, for what it fairly conveys to a person of ordinary skill in the

pertinent art in the context in which it is used." MPEP § 2173.05(g). Accordingly, Applicant submits that claim 11 is patentable over Cline for at least the foregoing reasons.

**B. Claims 12, 15 and 16**

Since claims 12, 15 and 16 are dependent upon claim 11, Applicant submits that such claims are patentable over Cline at least by virtue of their dependency.

With further regard to claim 12, the Examiner maintains that the proximal segment has an opening Al (see marked-up attachment) that is greater than outermost opening A2 of the hoe 15 in the structure 13. However, as discussed above, element A1 is the same size as element A2. Therefore, Applicant submits that claim 12 is patentable over Cline for at least this additional reason.

With further regard to claim 15, the Examiner maintains that Cline teaches a shank that includes a smooth shank segment of a diameter substantially smaller than a diameter of the distal segment of the through hole, and is followed to a free end by a threaded segment. However, the cylindrical portion of hole 14 of Cline, which the Examiner analogizes to the claimed distal segment, has nearly the same diameter of the elongated shank segment of the bolt 19. *See* Cline at Fig. 1. Therefore, Cline fails to teach or suggest a smooth shank segment of a diameter that is substantially smaller than a diameter of the distal segment of the through hole. Accordingly, Applicant submits that claim 15 is patentable over Cline for at least this additional reason.

With further regard to claim 16, the Examiner maintains that Cline teaches that the diameter of the smooth shank segment is less than or equal to 80% of the diameter of the distal segment of the through hole. *See* Office Action at page 9. However, the Examiner has not

identified any portion of the reference to support his position. This is because Cline is completely devoid of any teaching regarding the diameter of the smooth shank segment relative to the diameter of the through hole, much less that the diameter of the smooth shank segment is less than or equal to 80% of the diameter of the distal segment of the through hole. Accordingly, Applicant submits that claim 16 is patentable over Cline for at least this additional reason.

**VI. Claim Rejections under 35 U.S.C. § 103(a) over Potts in view of U.S. Patent No. 5,220,854 to Allart et al. ("Allart")**

Claims 5, 6, and 15-17 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Potts in view of Allart.

Since claims 5 and 6 are dependent upon claim 1, and Allart fails to cure the deficient teachings of Potts with regard to claim 1, Applicant submits that such claims are patentable at least by virtue of their dependency. In particular, regarding claim 1, the grounds of the rejection again reverse the locations of the distal and proximal segments in order to argue that Allart teaches the limitations of claims 5 and 6, which depend from claim 1. This interpretation is contrary to the clear language of the claim. In addition, claim 11 contains features that are similar to the features discussed above in conjunction with claim 1. Since claims 15-17 are dependent upon claim 11, and Allart fails to cure the deficient teachings of Potts with regard to claim 11, Applicant submits that such claims are patentable at least by virtue of their dependency. Therefore, Applicant requests the Examiner to reconsider and withdraw the rejection of claims 5-6 and 15-17 in view of Potts and Allart for at least these reasons.

## VI. Claim Rejections under 35 U.S.C. § 103(a) over U.S. Patent No. 2,560,413 to Carlson ("Carlson") in view of U.S. Patent No. 1,831,430 to Weis ("Weis")

Claims 1, 3, 4, 7, 9, and 11-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Carlson, 2,560,413, in view of Weis, 1,831,430. Applicant respectfully traverses the rejection.

### A. Claim 1

In the Amendment filed December 6, 2007, Applicant argued that Figures 1 and 4 of Carlson depict a bearing base 14 and bearing cap 12 are fitted together such that cap screws 16 are disposed in stepped bores 22 and 24 of the bearing cap 12 and the bearing base 14, respectively. *See* Carlson at col. 3, lines 49-71. The dowel bushing 32 is used as a rigid guide in order to provide alignment between the bearing cap 12 and bearing base 14. S*ee* Carlson at col. 4, lines 56-58. The dowel bushing 32 is a one-piece member that links the bearing members 12 and 14. Thus, Applicant argued, no lateral offset occurs, and the screw is not allowed to bend. In other words, the bushings are used to align the bores of the cap and the base to ensure that a cap screw can be screwed into the bores to connect the bearing cap 12 to the bearing base 14. Therefore, Carlson fails to teach the claimed feature that "the through hole (16) is allowed to be offset laterally (D) correspondingly relative to the associated corresponding tapped hole (15)." In fact, Carlson teaches the exact opposite, in that the bushing is used to maintain the alignment of the bores, not allow the holes to be laterally offset from each other.

In response, the Examiner states the following:

> With respect to Carlson, applicants argue that the reference fails to disclose the "the through hole (16) is a allowed to be offset laterally (D) correspondingly relative to the associated tapped hole (15)". In response, it should be noted that there's nothing that precludes the through hole 16, in Carlson, from being offset laterally correspondingly relative to the associated tapped hole. The fact that Carlson does not show this feature is irrelevant when the claimed invention does not require that the through hole be offset laterally relative to the tapped hole but merely having the ability to do so. Applicants argue that Weis fails to cure the deficient teachings of Carlson with respect to claim 1. In response, the argument appears to relate to offset feature; however, the examiner is not relying of Weis to teach this feature since this is an inherent feature in Carlson. Weis is merely used to teach an annular flange and nothing else.

Initially, Applicant notes, as discussed above, the claim feature "the through hole (16) is allowed to be offset laterally (D) correspondingly relative to the associated corresponding tapped hole (15)" is a functional limitation that "must be evaluated and considered, just like any other limitation of the claim, for what it fairly conveys to a person of ordinary skill in the pertinent art in the context in which it is used." MPEP § 2173.05(g).

Furthermore, in response to the Examiner's assertion that "there's nothing that precludes the through hole 16, in Carlson, from being offset laterally correspondingly relative to the associated tapped hole," Applicant notes that the Examiner has ignored the portions of Carlson cited by the Applicant in the Amendment filed December 6, 2007 and summarized above. As further support for the position that Carlson indeed teaches that the bushing is used to maintain the alignment of the bores, and does not allow the holes to be laterally offset from each other, Applicant offers the following citations from Carlson:

> ...wherein the dowel members possess sufficient strength and rigidity to maintain the initial established arrangement between

the members regardless of repeated separation and reassembly thereof. (Col. 1, lines 12-16).

Through the provision of dowel members possessing characteristics of being deformable to correct for inaccuracies of machining between mating dowel holes and yet having sufficient strength to maintain their established deformation as required to align two members adapted to be joined together. (Col. 1, lines 24-30).

An object of the invention is the provision of an assembly of cooperating member maintainable to a desired arrangement therebetween by a ductile dowel member...said dowel member...effective to provide for the established alignment therebetween after any disassembly and reassembly thereof. (Col. 1, lines 37-47).

Another object of the invention is the provision of...means of aligning two member relative to one another wherein permanent established alignment therebetween is necessary. (Col. 1, lines 48-52).

By providing a dowel member,...it is possible to economically provide for the fabrication of two members...for establishing a fixed relationship between members requiring an established positioning relative to one another. (Col. 3, lines 11-20).

Through the use of dowel bushings, a positive assurance of the alignment of the bearings sections is achieved to correct for the tendency of the bearing sections to change in shape or warp after the machining thereof and the removal of the cap screw bolts therefrom. (Col. 3, lines 37-42).

The bushings 32 in forming part of the bearing assembly become such prior to the boring of the main bearing opening 18-20 in that they assure a positive means for properly aligning the bearing cap and base sections together after a machining thereof and wherein normally upon the disassembly of the sections after machining because of the inherent tension in the metal causing a warpage of either one or both of the bearing members 12 and 14 tending to spread the bolt holes apart. (Col. 4, lines 23-33).

> It is requisite that the respective openings 18 and 20 be adaptable to alignment to one another for the life use of the members 12 and 14 and to this end the bushings 32 provide medium for assuring same wherein upon the disassembling of the members 12 and 14 from one another after a machining of servicing operation the warpage resulting in the members due to the inherent tension thereof as results from a machining operating spreads the mating bores 30 apart. (Col. 5, lines 53-63).
>
> ...even though the bushings are ductile to an extent to so be deformed initially in assembling the members 12 and 14 together, they have sufficient rigidity as to overcome the warpage tension of the members effective to align the members relative to one another without further distortion of deformation thereof. (Col. 5, lines 67-73).

As evident from the above-cited portions of Carlson, the reference clearly teaches that the bushing is used to maintain the permanent alignment of the bores, and does not allow the holes to be laterally offset from each other. Thus, the claimed feature is not present at all in the reference, much less inherently disclosed by the reference, as asserted by the Examiner. Therefore, Applicant submits that Carlson fails to teach the claimed feature that "the through hole (16) is allowed to be offset laterally (D) correspondingly relative to the associated corresponding tapped hole (15)." Since Weis fails to cure the deficient teachings of Carlson with respect to claim 1, Applicant submits that claim 1 is patentable over Carlson and Weis for at least the foregoing reasons.

**B. Claims 3, 4, 7, 9 and 11-17**

Since claims 3, 4, 7 and 9 are dependent upon claim 1, Applicant submits that such claims are patentable over Carlson and Weis at least by virtue of their dependency.

With regard to claim 11, Applicant argued in the Amendment filed December 6, 2007, that the stepped bore 22 of the bearing cap 12 of Carlson is disposed in alignment with the

stepped bore 24 of the bearing body 14. The Examiner alleges that the portion of the stepped bore 22 labeled A2 in the Examiner's marked-up version of Figure 4 of Carlson corresponds to the claimed proximal segment. However, portion A2 is the same size as the hole 16 in the stationary structure, which the Examiner analogizes to the bearing body 14. In other words, Carlson teaches that the proximal segment of the through hole, which is the portion closest to the stationary portion to which the flange is to be attached, is the same size as the hole in the stationary structure. Therefore, Applicant submitted that Carlson fails to teach that "the proximal segment has an opening that is sized differently from an outermost opening of the hole in the stationary structure."

In response the Examiner maintains that the opening in the structure is actually bigger due to the offset, i.e., the taper, on member 32 requires a bigger hole. The Examiner maintains that the offset provides evidence that the hole is of a different size since member 32 is wider at the lower area. *See* Office Action at page 19. However, as discussed above, the bushings are able to be initially deformed to accommodate slightly offset bores 22 and 24. In other words, when bores 22 and 24 are slightly offset, bushing 32 is used to align the bores to receive cap screw 16. Figure 4 merely shows that the bushing 32 is deformed to accommodate the offset bores 22 and 24, but does not show that the bores 22 and 24 are different sizes. There is no teaching or suggestion that the bores 22 and 24 are different sizes. Rather any offset between the same size bores 22 and 24 is remedied by bushing 32.

Furthermore, the Examiner is relying solely on the drawings of Carlson to support his position that bores 22 and 24 are sized differently. However, Carlson does not disclose that the drawings are to scale and, therefore, the Examiner is taking away more information than is

permitted. Indeed, proportionality of features in a drawing are not evidence of actual proportions when the drawings are not to scale. *See* Manual of Patenting Examining Procedure ("MPEP") § 2125. Accordingly, Applicant submits that claim 11 is patentable over Carlson and Weis for at least the foregoing reasons.

Since claims 12-17 are dependent upon claim 11, Applicant submits that such claims are patentable over Carlson and Weis at least by virtue of their dependency. With further regard to claims 12-17, Applicant argued in the Amendment filed December 7, 2007 that Carlson fails to teach any of the claimed features, nor has the Examiner has not identified a specific portion of the reference to support his position. In the present Office Action, the Examiner again fails to provide supporting citations to the reference to support the rejection. Therefore, Applicant respectfully requests the Examiner to identify the portions of Carlson the Examiner believes teaches the features of claims 12-17, or withdraw the rejection of such claims.

**VII. Claim Rejection under 35 U.S.C. § 103(a) over Carlson, in view of Weis, in further view of U.S. Patent No. 5,203,441 to Monette ("Monette")**

Claim 8 stands rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Carlson, in view of Weis, and further in view of newly cited Monette.

Since claim 8 is dependent upon claim 1, and since Monette fails to cure the deficient teachings of Carlson and Weis with respect to claim 1, Applicant submits that claim 8 is patentable over the cited references at least by virtue of its dependency.

## VIII. Claim Rejection under 35 U.S.C. § 103(a) over Cline

Claims 13, 14, and 17 stand rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Cline taken alone.

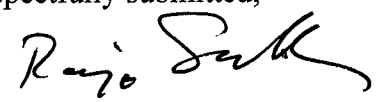
Since claims 13, 14 and 17 are dependent upon claim 11, Applicant submits that such claims are patentable over Cline at least by virtue of their dependency.

## IX. Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



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